IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

SUMMONS FOR JUDGMENT NO.241 OF 2006

IN

SUMMARY SUIT NO.172 OF 2006

...

M/s.Scan Synthetics Ltd. ...Plaintiffs

v/s.

Alan Scott Industries Ltd.

and anr. ...Defendants

...

Mrs.D.R.Trivedi for the Plaintiffs.

Mr.Snehal Shah i/b Pandya Gandhi & Co. for the Defendants.

...

CORAM: D.K.DESHMUKH, J.

DATED: 3RD OCTOBER,2006

P.C.:

1. Perusal of the particulars of the claim itself

shows that the suit is for recovery of the amount found due at the foot of the account. So far as the cheques are concerned, the case of the Defendants is that though the cheques were given, a request was made by the Defendants to the Plaintiffs not to deposit the cheques because the accounts were not settled.

2. The suit appears to have been instituted for recovery of the amount due at the foot of the account. There is controversy between the parties on the question as to why the cheques were not deposited. According to the Defendants because the amount was not crystalised and according to the Plaintiff because the Defendants made a request not to deposit the cheque. In my opinion, therefore, it cannot be said that the Defendants do not have any defence to offer or the defence offered by the Defendants is a merely moon shine defence.

. The Defendants are, therefore, entitled to leave to defend the suit. Summons for judgment is, disposed of. Defendants are granted unconditional leave to defend the suit. Written statement to be filed within eight weeks from today. Suit be

transferred to commercial cause list.

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